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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/059,396	01/31/2002	Tsuneo Hamada	31762-178058	6078

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Venable
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EXAMINER

O'CONNOR, BRIAN T

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 06/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/059,396	HAMADA, TSUNEO	
	Examiner	Art Unit	
	Brian T. O'Connor	2632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because

(1) Figures 31 and 34 do not have reference numerals for the tables which they are displaying.

(2) In figure 21, suggest changing the value in column R4 at row Net6 from "f4 - i4" to "f4 + i4".

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities:
- (1) In paragraph [0002], line 9, suggest changing “**n1Matix**” to “**n1Matrix**”.
 - (2) In paragraph [0011], line 11, suggest changing “**N13**” to “**Net13**”.
 - (3) In paragraph [0012], line 2, suggest changing “**Ne1**” to “**Net1**”.
 - (4) In paragraph [0013], line 5, suggest changing “**Net**” to “**Next**”.
 - (5) In paragraph [0024], line 18, suggest changing “**d1**” to “**e1**”.
 - (6) In paragraph [0027], line 15, suggest changing “**rt-Net7**” to “**R1-Net7**”.
 - (7) In paragraph [0031], line 4, suggest changing “generator **111**” to “generator **101**”.
 - (8) In paragraph [0031], line 17, suggest changing “value **e2 – e2**” to “value **e2 – e1**”.
 - (9) In paragraph [0049], line 1, suggest changing “router-to-**internet**” to “router-to-**network**”.
 - (10) In paragraph [0051], line 9, suggest changing “will **note** be” to “will **not** be”.
 - (11) In paragraph [0067], line 7, suggest changing “**N2**” to “**Net2**”.
 - (12) In paragraph [0068], line 7, suggest changing “**N4**” to “**Net4**”.
 - (13) In paragraph [0069], line 7, suggest changing “**N4**” to “**Net4**”.
 - (14) In paragraph [0070], line 7, suggest changing “**N8**” to “**Net8**”.
- Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 3 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention

Claim 3 recites "the number of packets calculated" in line 36 (line 24 of page 32), it is not clear if this refers to "calculating a number of packets" on line 19 (line 7 of page 32) or to "a number of packets" on line 29 (line 16 of page 32).

Claim 14 recites "the number of packets calculated" in line 38 (line 6 of page 39), it is not clear if this refers to "calculating a number of packets" on line 25 (line 25 of page 38) or to "a number of packets" on line 32 (line 32 of page 38).

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 1-2 are rejected under 35 U.S.C. 101 because the claimed invention is missing tangible results and therefore lacks practical application.

In claim 1, a method is recited which holds and collects data from routers in a network. Then the data is used to "determine an amount of information transferred via the site", the amount of information is not displayed or presented to any network manager or network-connected component. Claim 2 fails to resolve the deficiencies of claim 1.

Claims 3-6 are rejected under 35 U.S.C. 101 because the claimed invention constitutes a judicial exception in the form of an abstract idea.

In claim 3, a method is recited which collects data from a telecommunication network, builds a model for calculation of a number of packets from router to network, and forms a traffic distribution matrix. The resultant matrix and model are not displayed or presented to any network manager or network-connected component. Claims 4-6 fail to resolve the deficiencies of claim 3.

Claims 7-8 are rejected under 35 U.S.C. 101 because the claimed invention is missing tangible results and therefore lacks practical application.

In claim 7, an apparatus is recited in which a first circuit collects data from routers in a network. Then a second circuit uses the data to “determine an amount of information transferred via the site”, the amount of information is not displayed or presented to any network manager or network-connected component for the purpose of traffic management. Claim 8 fails to resolve the deficiencies of claim 7.

Claims 9-12 are rejected under 35 U.S.C. 101 because the claimed invention is missing tangible results and therefore lacks practical application.

In claim 9, an apparatus is recited in which a circuit collects data from a telecommunication network, builds a model for calculation of a number of packets from router to network, and forms a traffic distribution matrix. The resultant matrix and model are not displayed or presented to any network manager or network-connected component for the purpose of traffic management. Claims 10-12 fail to resolve the deficiencies of claim 9.

Claim 14 is rejected under 35 U.S.C. 101 because the claimed invention is missing tangible results and therefore lacks practical application.

In claim 14, a traffic managing apparatus is recited in which a management information access circuit collects data from routers in a network and a network topology manager that forms a topology database. Then a traffic distribution manager uses the topology database to “prepare a model of router-to-network traffic distribution matrix” and “form a first router-to-network traffic distribution matrix”, the traffic distribution matrix is not displayed or presented to any network manager or network-connected component for the purpose of traffic management.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 7, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Diebboll et al. (US 5,886,643).

Diebboll et al. discloses a method for calculating traffic at a site in a telecommunications network comprising the steps of:

(1) with regard to claim 1:

holding management data on information transferred from each of the routers (probe 20 in figure 1, column 4, lines 22-60);

collecting the management data held from the routers (100, 102 in figure 3); and

determining an amount of information transferred via the site on a basis of the management data (104, 106, 108, 110, 112 in figure 3).

Diebboll et al. discloses a traffic managing apparatus comprising:

(2) with regard to claim 7:

a first processing circuit for collecting management data on information transferred from each of the routers (probe 20 in figure 1, column 4, lines 22-60); and

a second processing circuit for determining an amount of information transferred via the site on a basis of the management data (NMS 40 in figure 1, column 4, line 66 – column 5 22).

(3) with regard to claim 13:

Diebboll et al. teaches a plurality of routers (R1, R2, R3, R4, R5 in figure 1) for transferring information over said network, and network segments (X, Y, V, Z, W in figure 1) interconnected to said plurality of routers, said plurality of routers holding management data on information transferred from said routers (P1, P2, P3, P4 in figure 1); and

traffic managing apparatus (REPORT 50 in figure 1) for calculating traffic at a site in said network; said apparatus comprising:

a first processing circuit for collecting management data on information transferred from each of said routers (probe 20 in figure 1, column 4, lines 22-60); and

a second processing circuit for determining an amount of information transferred via the site on a basis of the management data (NMS 40 in figure 1, column 4, line 66 – column 5, line 22).

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10. Claims 1, 2(2/1), 7, and 8(8/7) are rejected under 35 U.S.C. 102(e) as being anticipated by Wolf et al. (US 6,278,694).

Wolf et al. discloses a method for calculating traffic at a site in a telecommunications network comprising the steps of:

(1) with regard to claim 1:

holding management data on information transferred from each of the routers (probe 20 in figure 1, column 4, lines 22-60);

collecting the management data held from the routers (62, 64 in figure 5A); and

determining an amount of information transferred via the site on a basis of the management data (66 in figure 5A).

(2) with regard to claim 2(2/1):

subtracting, when first one of the routers has relayed information transmitted from second one of the routers which is upstream the first router, the management data held at the second router from the management data which is held at the first router and meant for a destination network segment of the network segments, whereby amounts of

communication are determined between the first router and the destination network segment (68, 70, 72, 74 in figure 5A, column 5, lines 40-56).

Wolf et al. discloses a traffic managing apparatus comprising:

(3) with regard to claim 7:

a first processing circuit for collecting management data on information transferred from each of the routers (P2, P3 in figure 1); and

a second processing circuit for determining an amount of information transferred via the site on a basis of the management data (NETWORK MANAGER 20 in figure 1).

(4) with regard to claim 8(8/7):

a third processing circuit for subtracting, when first one of the routers has relayed information transmitted from second one of the routers which is upstream the first router, the management data collected at the second router from the management data which is collected at the first router and meant for a destination network segment of the network segments, whereby amounts of communication are determined between the first router and the destination network segment (40, 42, 44 in figure 4, column 5, lines 40-56).

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(1) Tams et al. (US 6,279,037) discloses a method and apparatus for collecting, storing, and processing remote network traffic data.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian T. O'Connor whose telephone number is 571-270-1081. The examiner can normally be reached on 7:30AM-5:00PM, 2nd Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shuwang Liu can be reached on 571-272-3036. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Brian T O'Connor

14 June 2006



SHUWANG LIU
PRIMARY EXAMINER